HIGH COURT OF JUDICATURE CHHATTISGARH :BILASPUR

CORAM : **HON'BLE SHRI S.R. NAYAK, CJ.**
& HON'BLE SHRI D.R. DESHMUKH, J.

Misc. Appeal No. 420 of 2005

अपीलार्थी
———
अनावेदक कमांक – 3

नेशनल इंश्योरेन्स कम्पनी लिमिटेड
शाखा कार्यालय गुमला
जिला गुमला {झारखंड}

–विरूद्व–

उत्तरवादिनी
———
आवेदिका

1. हरियो बाई, विधवा स्वर्गीय शीलू नगेसिया
आयु 65 साल, निवासी – ग्राम पड़काडीह
थाना – डुमरी
जिला गुमला {झारखंड}

उत्तरवादी–गण
———
अनावेदक–गण

2. खीस्तोफर कुजूर, आत्मज एलेक्सियुस कुजूर
जाति उरांव, आयु 36 साल,
{वाहन चालक}
स्थायी निवासी – केरसई
थाना तपकरा, जिला जशपुर
हाल मुकाम – पुरानी टोली
तहसील व थाना जशपुर नगर
जिला जशपुर {छ.ग.}

3. परम बनटटू बाला रजन जिनेश
{पी.बी.जिनेश} आयु 45 साल,
आत्मज पी.बी.शंकरन
द्वारा/संजय कुमार नायक
बालाजी कालोनी, जशपुर नगर
जिला जशपुर {छ.ग.}
{वाहन स्वामी}
वाहन ट्रेक्टर कमांक महिन्द्रा 0/275
डी.आई.बी.पी. इंजन नम्बर एन.डी.एच. 18654 ट्राली चेसिस
नम्बर एन.ए.बी. 39.

Present : Shri Shree Kumar Agrawal, learned Sr. Advocate with Shri A.K. Gupta, learned counsel for the appellant.

Oral Order
(2nd January, 2006)

The following order of the Court was passed by

S. R. Nayak, CJ.

In this appeal preferred by the Insurance Company the impugned award is assailed on the ground that the driver of the motor-vehicle involved in the accident did not have valid and effective driving licence. Although such a plea was taken in the written statement filed by the Insurance Company before the MACT, admittedly, the appellant – Insurance Company did not adduce any evidence to prove that plea. It is well settled that it is the burden of the Insurance Company to raise such plea as well as to prove such plea by substantive legal evidence. In that view of the matter, the ground urged before this Court in appeal could not be countenanced. The appeal is devoid of merit and it is accordingly dismissed. There shall be no order as to costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge